

The Honorable JAMES L. ROBART

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SCOTT FRANCIS ICEBERG,

Plaintiff,

v.

STATE OF WASHINGTON,
DSHS/DVR, ANN MARTIN, TRACY
WILSON,

Defendants.

NO. C15-1232 JLR

DEFENDANTS' REPLY TO
PLAINTIFF'S RESPONSE TO
MOTION FOR MORE
DEFINITE STATEMENT

**NOTE FOR MOTION
CALENDAR:
December 25, 2015**

Division of Vocational Rehabilitation (DVR), an agency within the Department of Social and Health Services (DSHS), through its attorneys, ROBERT W. FERGUSON, Attorney General of Washington, and AMBER L. LEADERS, Assistant Attorney General, replies to Plaintiff's Response to Defendants' Motion for More Definite Statement.

Mr. Iceberg requests that this Court deny Defendants' motion for more definite statement because it is moot. His request is perplexing because the deficiencies in the complaint alleged by Defendants have not yet been cured. Indeed, Defendants' motion, if granted, would afford Mr. Iceberg the relief he appears to seek: an opportunity to file a second amended complaint.

1 Mr. Iceberg suggests that the parties instead should confer to resolve deficiencies in the
2 complaint rather than proceeding under Fed. R. Civ. P. 12(e). However, Mr. Iceberg has
3 indicated that his intended amendments would address solely the issue of specific dates as the
4 “only legitimate deficiency”. *Leaders Declaration*, ¶ 2. Defendants believe that single
5 amendment would not sufficiently cure the Complaint and that all deficiencies highlighted in
6 the motion for more definite statement need to be addressed. Therefore, Defendants
7 respectfully request this Court to provide specific guidance to Mr. Iceberg on what any
8 amended complaint will require. Fed. R. Civ. P. 12(e) is appropriate for that purpose and this
9 Court should grant Defendants’ motion for more definite statement and require additional
10 specificity in all requested categories.

11 I. CONCLUSION

12 Defendants request that this Court grant the motion for more definite statement and
13 order Mr. Iceberg to file an amended complaint curing the deficiencies noted in the motion.
14 Any amended complaint should include factual allegations that would support all elements of
15 the alleged causes of action. Further, it should supply reasonably specific dates of the
16 allegations, and specific actions by the named Defendants that would support relief. Should
17 Mr. Iceberg fail to comply with the Court’s order within fourteen days, the Court should
18 dismiss the action pursuant to Fed. R. Civ. P. 12(e).

19 RESPECTFULLY SUBMITTED this 21st day of December 2015.

20 ROBERT W. FERGUSON
21 Attorney General

22 s/ Amber L. Leaders
23 AMBER L. LEADERS, WSBA No.44421
24 Assistant Attorney General
25 Attorney for Defendants
26 PO Box 40124
Olympia, WA 98504-0124
Telephone: (360) 586-6565
Fax: (360) 586-6658
E-mail: AmberL1@atg.wa.gov

1 **CERTIFICATE OF SERVICE**

2 *Amber Leaders*, states and declares as follows:

3 I am a citizen of the United States of America and over the age of 18 years and I am
4 competent to testify to the matters set forth herein. I hereby certify that on this 21st day of
5 December 2015, I electronically filed the foregoing document with the Clerk of the Court
6 using the CM/ECF system, which will send notification of such filing to the following:

7 Scott F. Iceberg: scotticeberg@yahoo.com

8 A copy was also sent via U.S. Mail as follows:

9 **Plaintiff**

10 Scott F. Iceberg
11 715 2nd Avenue N, Apt 001
Seattle, WA 98109

12 I declare under penalty of perjury under the laws of the state of Washington that the
13 foregoing is true and correct.

14 DATED this 21st day of December 2015, at Tumwater, Washington.

15
16 *s/ Amber L. Leaders*

17 Amber L. Leaders
18 Assistant Attorney General
19
20
21
22
23
24
25
26